



House of Representatives

File No. 814

General Assembly

January Session, 2017

(Reprint of File No. 430)

Substitute House Bill No. 7138
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 31, 2017

AN ACT CONCERNING LEGISLATIVE OVERSIGHT OF MAJOR TRANSPORTATION PROJECTS AND PLANNING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2017*) (a) There is established a
2 Transportation Policy Advisory Council, which shall be part of the
3 Executive Department.

4 (b) The council shall consist of the following members:

5 (1) One appointed by the speaker of the House of Representatives;

6 (2) One appointed by the president pro tempore of the Senate;

7 (3) One appointed by the majority leader of the House of
8 Representatives;

9 (4) One appointed by the majority leader of the Senate;

10 (5) One appointed by the minority leader of the House of
11 Representatives;

- 12 (6) One appointed by the minority leader of the Senate;
- 13 (7) The Secretary of the Office of Policy and Management, or the
14 secretary's designee;
- 15 (8) The Commissioner of Economic and Community Development,
16 or the commissioner's designee;
- 17 (9) The Commissioner of Energy and Environmental Protection, or
18 the commissioner's designee;
- 19 (10) The Commissioner of Housing, or the commissioner's designee;
- 20 (11) The State Treasurer, or the Treasurer's designee; and
- 21 (12) Two appointed by the Governor.
- 22 (c) The council shall consist of the following ex-officio, nonvoting
23 members: (1) The Commissioner of Transportation, or the
24 commissioner's designee, and (2) the chairpersons and ranking
25 members of the joint standing committee of the General Assembly
26 having cognizance of matters relating to transportation.
- 27 (d) Any member of the council appointed under subdivisions (1) to
28 (6), inclusive, of subsection (b) of this section may be a member of the
29 General Assembly.
- 30 (e) All initial appointments to the council shall be made not later
31 than December 1, 2017.
- 32 (f) The Secretary of the Office of Policy and Management, or the
33 secretary's designee, shall serve as the chairperson of the council. Such
34 chairperson shall schedule the first meeting of the council, which shall
35 be held not later than February 1, 2018.
- 36 (g) The council shall be within the Office of Policy and Management
37 for administrative purposes only.
- 38 (h) The terms of the appointed members of the council shall be

39 coterminous with the terms of the appointing authority for each
40 member and subject to the provisions of section 4-1a of the general
41 statutes. Any vacancy on the council shall be filled by the appointing
42 authority.

43 (i) Three-fourths of the voting members of the council shall
44 constitute a quorum for the transaction of any business.

45 (j) The members of the council shall serve without compensation,
46 but shall, within available appropriations, be reimbursed for expenses
47 necessarily incurred in the performance of their duties.

48 (k) The council shall have the following powers and duties:

49 (1) To develop and recommend policies for improving
50 transportation planning and the selection of transportation projects;

51 (2) To review the five-year transportation capital plan for the state
52 developed annually by the Department of Transportation, examine the
53 impact of such plan on the present and future transportation needs of
54 the state and evaluate whether such plan assures the development and
55 maintenance of an adequate, safe and efficient transportation system;

56 (3) To conduct a public hearing annually on the five-year
57 transportation capital plan for the state and seek testimony from
58 metropolitan planning organizations, as defined in 23 USC 134, as
59 amended from time to time, regarding transportation projects to be
60 conducted or being conducted within the boundaries of their
61 respective metropolitan planning areas;

62 (4) To advise the Commissioner of Transportation on policies and
63 procedures to promote economic development, transit-oriented
64 development, housing development, access to employment,
65 environmental protection and the specific needs of geographic areas of
66 the state;

67 (5) To review the assessment of transportation projects prepared
68 and submitted pursuant to subsection (e) of section 2 of this act;

69 (6) To obtain from any executive department, board, commission or
70 other agency of the state such assistance and data as necessary and
71 available to carry out the purposes of this section; and

72 (7) To perform such other acts as may be necessary and appropriate
73 to carry out the duties described in this section.

74 (l) The council may establish committees at any time to advise the
75 council in carrying out its duties. Each committee shall be composed of
76 transportation professionals, advocates and other interested
77 stakeholders.

78 (m) Not later than January 1, 2019, and annually thereafter, the
79 council shall submit, in accordance with the provisions of section 11-4a
80 of the general statutes, a report on its activities to the joint standing
81 committees of the General Assembly having cognizance of matters
82 relating to transportation and finance, revenue and bonding.

83 Sec. 2. (NEW) (*Effective from passage*) (a) For the purposes of this
84 section, "transportation project" means any transportation planning or
85 capital project undertaken by the state on or after July 1, 2018, that
86 expands capacity on a limited access highway, transit or railroad
87 system or parking facility or is estimated to cost one hundred fifty
88 million dollars or more.

89 (b) The Commissioner of Transportation, in consultation with the
90 Commissioners of Economic and Community Development, Housing
91 and Energy and Environmental Protection, the Secretary of the Office
92 of Policy and Management and the chairpersons and ranking members
93 of the joint standing committees of the General Assembly having
94 cognizance of matters relating to transportation and finance, revenue
95 and bonding, shall develop a method to assess each transportation
96 project to determine the impact of such transportation project on
97 economic development, transit-oriented development, housing
98 development, access to employment, the environment, traffic
99 congestion and public safety.

100 (c) On or before February 1, 2018, the commissioner shall submit, in
101 accordance with section 11-4a of the general statutes, such assessment
102 method to the joint standing committee of the General Assembly
103 having cognizance of matters relating to transportation. Not later than
104 sixty days after the receipt of such assessment method, said committee
105 shall meet to approve or reject such assessment method and advise the
106 commissioner of said committee's approval or rejection. If said
107 committee fails to approve or reject such assessment method within
108 sixty days of such receipt, such assessment method shall be deemed
109 approved. Such assessment method shall become effective when
110 approved by an affirmative vote of said committee or deemed
111 approved. In the event that such assessment method is rejected, such
112 assessment method shall be returned to the commissioner for revisions
113 and resubmitted to said committee not later than thirty days after such
114 rejection.

115 (d) On and after July 1, 2018, the commissioner shall assess each
116 transportation project using the assessment method approved
117 pursuant to subsection (c) of this section. The commissioner shall not
118 include a transportation project in the Department of Transportation's
119 five-year transportation capital plan for the state unless the assessment
120 of such transportation project is completed.

121 (e) The commissioner shall submit the assessment of each
122 transportation project to the Transportation Policy Advisory Council
123 established pursuant to section 1 of this act and post such assessments
124 on the Department of Transportation's Internet web site.

125 (f) The Department of Transportation shall not submit a request for
126 appropriations or authorization of bonds for a transportation project to
127 the General Assembly unless the commissioner has submitted the
128 assessment of such transportation project pursuant to subsection (e) of
129 this section. The provisions of this subsection do not apply to a
130 transportation project undertaken by the department provided the
131 commissioner finds such project is necessary to maintain the state's
132 transportation infrastructure in good repair and such project does not

133 add capacity to a limited access highway, transit or railroad system or
 134 parking facility and is estimated to cost less than one hundred fifty
 135 million dollars.

136 (g) On or before January 1, 2019, and annually thereafter, the
 137 commissioner shall submit a report, in accordance with the provisions
 138 of section 11-4a of the general statutes, to the joint standing committees
 139 of the General Assembly having cognizance of matters relating to
 140 transportation and finance, revenue and bonding, on the assessments
 141 of transportation projects completed in the previous calendar year.

142 Sec. 3. Subsection (a) of section 4-9a of the general statutes is
 143 repealed and the following is substituted in lieu thereof (*Effective*
 144 *October 1, 2017*):

145 (a) The Governor shall appoint the chairperson and executive
 146 director, if any, of all boards and commissions within the Executive
 147 Department, except the State Properties Review Board, the State
 148 Elections Enforcement Commission, the Commission on Human
 149 Rights and Opportunities, the Commission on Fire Prevention and
 150 Control, [and] the Citizen's Ethics Advisory Board and the
 151 Transportation Policy Advisory Council.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>October 1, 2017</i>	4-9a(a)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 18 \$	FY 19 \$
Policy & Mgmt., Off.	GF - Potential Cost	less than \$1,000	less than \$1,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill as amended establishes a transportation policy advisory council within the Office of Policy and Management. There may be a potential cost of less than \$1,000 for those members of the council seeking mileage reimbursement, currently at 53.5 cents per mile.

House "A" struck the underlying bill and its associated fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the reimbursement to council members.

OLR Bill Analysis**sHB-7138 (as amended by House "A")******AN ACT CONCERNING LEGISLATIVE OVERSIGHT OF MAJOR TRANSPORTATION PROJECTS AND PLANNING.*****SUMMARY**

This bill establishes an 18-member Transportation Policy Advisory Council as part of the executive branch and within the Office of Policy and Management (OPM) for administrative purposes only. It charges the council with various responsibilities related to transportation policy, including reviewing the five-year transportation capital plan developed by the Department of Transportation (DOT) each year.

The bill requires DOT, in consultation with specified commissioners and legislators, to develop and submit for legislative approval a method for assessing each transportation project to determine the project's impact on economic development, housing development, access to employment, the environment, traffic congestion, and public safety. The bill generally (1) requires the commissioner to use the method to assess each project that meets the bill's definition of transportation project and (2) prohibits the commissioner from requesting funding for any project he has not assessed.

Under the bill, a "transportation project" is any transportation planning or capital project that the state begins on or after July 1, 2018 that (1) expands capacity on a limited access highway, transit or railroad system, or parking facility or (2) is estimated to cost at least \$150 million.

*House Amendment "A" (1) moves the council from DOT to OPM; (2) modifies the council's membership; (3) modifies the council's duties, including eliminating the requirement that the council develop

a four-year transportation plan; (4) adds the requirement that DOT develop a project assessment method; (5) eliminates a provision prohibiting the legislature from funding projects not approved by the council and (6) modifies the definition of “transportation project.”

EFFECTIVE DATE: October 1, 2017, except for provisions related to the project assessment method, which are effective upon passage.

TRANSPORTATION COUNCIL

Council Membership and Procedure

Under the bill, the council has 18 members, 13 voting and five nonvoting. Eight of the voting members, are appointed (two by the governor and one by each of the six legislative leaders) and five serve ex-officio: the OPM secretary, who acts as the chairperson; the state treasurer; and the commissioners of economic and community development, energy and environmental protection, and housing. The five nonvoting members are the DOT commissioner and the chairpersons and ranking members of the Transportation Committee. The bill allows the OPM secretary, the treasurer, and the commissioners to instead send a designee.

Under the bill, any legislative appointee can be a legislator. Such an appointment may violate a constitutional ban on legislators holding positions in the executive branch (see COMMENT). Appointees serve at the pleasure of, and their terms are coterminous with, their appointing authorities. All vacancies are filled by the appointing authority.

The bill requires initial appointments to be made by December 1, 2017 and the OPM secretary to schedule and hold the council’s first meeting by February 1, 2018. Three-fourths of the council’s voting members constitute a quorum for conducting business.

Council members are not paid, but can be reimbursed, within available funding, for necessary expenses they incur.

Council Powers and Duties

Under the bill, the council has various powers and duties related to transportation policy. The bill charges the council with:

1. developing and recommending policies for improving transportation planning and selecting transportation projects;
2. advising the DOT commissioner on policies to promote economic development, transit-oriented development, access to employment, environmental protection, and the specific needs of geographic areas of the state; and
3. reviewing assessments of transportation projects (see below).

It requires the council to review the five-year transportation capital plan DOT develops each year, including:

1. examining the plan's impact on the state's present and future transportation needs;
2. evaluating whether the plan assures the development of an adequate, safe, and efficient transportation system; and
3. conducting an annual public hearing on the plan and seeking testimony from metropolitan planning organizations (MPOs) on transportation projects within their district boundaries. (MPOs are organizations created by federal law to provide local input into the federally-required transportation planning process.)

Under the bill, the council is also authorized to (1) obtain from any executive branch agency, board, commission, or other state agency any data or assistance it needs to fulfill its charge; (2) enter into contracts, within the limits of appropriated funds and established procedures; and (3) perform any other necessary and appropriate acts.

The council may also establish advisory committees to advise it, which must consist of transportation professionals, advocates, and other interested stakeholders.

Reporting. The bill requires the council to annually report on its activities, starting by January 1, 2019, to the Transportation and Finance, Revenue and Bonding committees.

TRANSPORTATION PROJECT ASSESSMENT METHOD

The bill requires the DOT commissioner to develop a method for assessing each transportation project's impact on economic development, transit-oriented development, housing development, access to employment, the environment, traffic congestion, and public safety. In doing so, the commissioner must consult with the OPM secretary; the chairpersons and ranking members of the Transportation and Finance, Revenue and Bonding committees; and the commissioners of economic development, housing, and energy and environmental protection.

Legislative Review and Approval

By February 1, 2018, the bill requires the DOT commissioner to submit the assessment method to the Transportation Committee. The committee must meet to approve or reject the method within 60 days of receiving it. The method becomes effective upon the committees affirmative vote or if the committee does not act by the 60-day deadline. If the method is rejected, the DOT commissioner must revise it and return it to the committee within 30 days.

Assessment of Projects

Beginning July 1, 2018, the bill requires the DOT commissioner to assess each transportation project using the approved assessment method. The commissioner must submit the assessments to the council and post them on DOT's website.

The bill prohibits the commissioner from including a project in the five-year capital plan if he has not assessed the project using the approved method. It also prohibits him from submitting a bonding or appropriation request to the legislature for a project if he has not submitted the project's assessment to the council, unless the project (1) is necessary to maintain the state's infrastructure in good repair, as

determined by the commissioner and (2) does not meet the bill's definition of "transportation project" (see above).

The bill requires the DOT commissioner to annually report to the Transportation and Finance, Revenue and Bonding committees, starting by January 1, 2019, on the transportation project assessments undertaken in the previous calendar year.

COMMENT

Dual Job Ban

Connecticut has both a constitutional and statutory ban against legislators accepting or holding positions or offices in the executive or judicial branch, in Congress, or with the federal government (Conn. Const., art. III § 11; CGS § 2-5). This bill allows legislators to be appointed to a council that is explicitly part of the executive branch, and such an appointment may violate the dual job ban.

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 19 Nay 16 (03/17/2017)